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Microsoft

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VIA ECFS

Marlene H. Dortch, Esq.
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: PS Docket No. 18-261 - In the Matter of Implementing Kari's Law and Section 506 of RAY BAUM's Act
PS Docket No. 17-239 – In the Matter of Inquiry Concerning 911 Access, Routing, and Location in Enterprise Communications Systems

Dear Ms. Dortch:

On June 24, the undersigned, Laura Carter, Roy Kuntz and Grace Paek – all from Microsoft Corporation -- met with Randy Clarke, Legal Advisor for Commissioner Geoffrey Starks, and on June 25 met with Zenji Nakazawa Legal Advisor for Chairman Ajit Pai, Jamie Susskind, Chief of Staff for Commissioner Brendan Carr, Erin McGrath, Legal Advisor for Commissioner Michael O'Rielly, Travis Littman, Chief of Staff and Senior Legal Advisor for Commissioner Jessica Rosenworcel and the following members of the Public Safety and Homeland Security Bureau (PSHSB) – David Furth, Deputy Chief; Erika Olsen, Senior Legal Counsel (by phone); Michael Wilhelm, Chief, Policy and Licensing Division (PLD); John A. Evanoff, Deputy Chief, PLD; Elizabeth Cuttner, Attorney-Advisor, PLD; Dr. Rasoul Safavian, Technologist, PLD; Nellie Foosaner, Attorney-Advisor, PLD; Thomas Eng, Electronics Engineer, PLD (by phone); Alison Venable, Legal Intern, PLD; Jaime McCoy, Legal Intern, PLD; and Natalie Seales, Legal Intern, PLD. Ms. Paek was not in attendance for the meetings with Mr. Clarke, Ms. McGrath and Mr. Littman. The Microsoft representatives discussed the use of commercially available location information, extending liability protections, exempting one- way outbound services, and the definition of pre-configuration.

Improving Location Capabilities. In each of these meetings, Microsoft expressed its view that Multiline Telephone Services ("MLTS") and interconnected VoIP ("iVoIP") services are capable of providing improved location information for emergency calls, but they are not capable today – and will not be capable in the future – of providing a "dispatchable location" (as currently defined in the Commission's rules) on each and every 911 call, because there is no technology available that provides a room number, suite number, etc. for every single call. As currently proposed, the requirement that "dispatchable location" be provided on every call is

unachievable and, perhaps more importantly, runs the risk of preventing the use of readily available location technologies that can vastly improve the current location capabilities of MLTS and iVoIP, particularly nomadic MLTS and iVoIP services like those provided by Microsoft.

The Microsoft representatives noted that today, nomadic services provided "over the top" of other entities' networks are relying primarily on registered locations provided by users, and expressed the belief that services can do much better by relying on the location services readily available in internet-connected devices today. The Microsoft representatives asked the Commission to ensure that rules governing 911 calls from MLTS and iVoIP do not purposefully or inadvertently preclude the use of this location information, and outlined the following reasons for encouraging and ensuring the use of commercial location services in the 911 context:

- the information is readily available (subject to user consent, which is discussed below) and does not require the development and operation of a U.S.-only, 911-only location solution such as the National Emergency Number Database;
- it provides accurate location information – certainly far more accurate for nomadic iVoIP services than the current use of "registered location";
- accuracy and functionality is likely to continue to improve over time as market forces drive innovation in location services' capabilities; and
- it is globally available (and already in use for wireless emergency calls in much of Europe), thus increasing the potential for faster and broader adoption across the world.

The Microsoft representatives shared that a number of challenges need to be addressed to enable the use of commercially available location services. For example, an application running over the top of an unaffiliated network and device is, rightfully, subject to the user's privacy settings on that device and within the application. Therefore, if a user has turned off location services on her device or within the relevant calling app, access to location information may not be possible – even for purposes of supporting that user's 911 call. Honoring users' privacy settings is critically important, particularly with sensitive information like location. Therefore, it will be necessary to find a way to access a user's location for the sole purpose of routing a 911 call and providing location information to the Public Safety Answering Point ("PSAP").

Moreover, additional challenges remain for MLTS and iVoIP apps and services, particularly those that are used globally. For example, many of Microsoft's MLTS and iVoIP users work for multinational corporations and frequently travel internationally. As the emergency calling obligation is being expanded to new providers through the MLTS rules and regulations, these additional international roaming details must be considered and addressed to ensure the continued proper functioning of the emergency calling system.

Liability Protection for MLTS. The Microsoft representatives also discussed the need for Commission clarification that MLTS providers are entitled to the same liability protections afforded wireless carriers, iVoIP services and text-to-911 services. They expressed the belief that federal law should protect service providers which are obligated to support 911 services, by ensuring that they are entitled to the same liability protection under state law that is provided to local exchange carriers.

Federal Law (47 U.S.C. § 615a) provides, in relevant part: "A wireless carrier, IP-enabled voice service provider, or other emergency communications provider, and their officers, directors, employees, vendors, and agents, shall have immunity or other protection from liability in a State of a scope and extent that is not less than the scope and extent of immunity or other protection from liability that any local exchange company, and its officers, directors, employees, vendors, or agents, have under Federal and State law (whether through statute, judicial decision, tariffs filed by such local exchange company, or otherwise) applicable in such State, including in connection with an act or omission involving the release to a PSAP, emergency medical service provider or emergency dispatch provider, public safety, fire service or law enforcement official, or hospital emergency or trauma care facility of subscriber information related to emergency calls, emergency services, or other emergency communications services.")

The Commission has previously clarified the legal entities that are covered by this provision of federal law – particularly those that are included in the category of "other emergency communications service providers." In 2014, for example, the Commission interpreted the statute to determine whether "other emergency communications service providers" included providers of text-to-911 services. There, the Commission explained that: "Based on our interpretation of the statute, we conclude that covered text providers subject to our text-to-911 requirements fall within the scope of "other emergency communications service providers" under Section 201(a) of the NET 911 Act. … We [] find that text-to-911 service, as we require in this Second Report and Order, satisfies the definition of " other emergency communications services," because it clearly provides " emergency information" to a PSAP via radio communications. Accordingly, we conclude that Congress intended that all covered text providers should be given parity of liability protection for the provision of text-to-911." *In the Matter of Facilitating the Deployment of Text-to-911 & Other Next Generation 911 Applications*, 29 F.C.C. Rcd. 9846 (2014) at para. 65.

The Microsoft representatives argued that given the significant role that MLTS plays in the provision of 911 services in the United States, the fact that MLTS apps will be engaged in the transmission of 911 information to PSAPs, and in light of the new legal obligations being imposed upon them through KARI's Law and this proceeding, the Commission should clarify that 47 U.S.C. 615a's "other emergency communications provider" includes MLTS Manufacturers, Importers, Sellers, Lessors, Installers, Operators and Managers.

Unintended Consequences of One-Way Outbound 911 Calls. The Microsoft representatives reiterated their position that that emergency calling obligations should not

apply to one-way outbound services such as Microsoft's Skype Out feature. They noted that while enabling emergency calling for one-way outbound services will not be easy, particularly given the complexities of properly routing these particular "over the top" calls to the correct PSAP among over 6,000 PSAPs in the U.S., it is not technically impossible to do so. However, technical feasibility should not be the only consideration and they discussed additional considerations in their meeting.

First, based on our experience providing emergency calling in three European countries and Australia, there is no customer expectation that Skype Out will connect to emergency services. In a two-year period across these four countries Skype connected about 2,600 emergency calls that lasted more than one minute (thus, indicating that these calls likely were legitimate). The Microsoft representatives expressed the belief that this small number of calls across four countries indicates little interest or expectation from consumers that outbound-only calling apps will or should connect to emergency services, and noted that there does not seem to be any demand for this type of feature.

Second, the Microsoft representatives discussed the fact that – just like Non-Service Initialized wireless calls – one-way outbound only emergency calls arrive at the PSAP with no call-back number. As a result, such services may result in nuisance calls to PSAPs – unknown callers either accidentally dialing 911 from their outbound-only app or, worse, purposefully dialing 911 for nefarious purposes. In either case, PSAPs are faced with unknown callers making false 911 calls with no ability to immediately track down the caller and take appropriate action. In Microsoft's experience in the four countries where we enable emergency calling today, emergency calls that last less than one minute (i.e., calls that are unlikely to be legitimate emergencies) outnumber legitimate calls (i.e., those lasting more than one minute) almost 2-to-1. Thus, when combined with the fact that consumers do not expect to use these services for emergency calling (based on Skype's actual experience in four countries), Microsoft believes these risks outweigh any potential benefit of extending emergency calling to these types of apps.

Finally, as Microsoft noted in its Comments in this proceeding, and as we briefly discussed in our meeting with Mr. Littman, there are questions about the legal basis upon which the Commission is extending the emergency calling obligation to one-way outbound calling services. The New and Emerging Technologies 911 Improvement Act provided the Commission with authority to establish emergency calling requirements for IP-enabled voice services which were defined to be synonymous with "interconnected VoIP service." In this proceeding, however, the Commission does not propose to expand or modify the definition of "interconnected VoIP service" to include outbound-only calling apps. Nor does it propose an independent legal basis for imposing an emergency calling obligation on applications that currently satisfy the statutory definition of "non-interconnected VoIP." Therefore, in addition to

the practical implications discussed above, there are legal uncertainties about this expansion of the rule, given the lack of adequate notice or explanation of the proposed statutory basis for expanding the scope of emergency calling regulations to include an entirely new category of providers and applications.

Definition of "Pre-Configured". In the PSHSB meeting, Microsoft's representatives and Bureau staff discussed the fact that both Microsoft and Cisco had proposed amended versions of the "pre-configured" definition. In reviewing both proposed definitions, Microsoft can support either version – its own proposal or Cisco's proposal – because both address the fact that MLTS in today's marketplace are not simply "plug and play." Today's systems require appropriate installation and system configuration, as well as ongoing maintenance and operation, to ensure the proper functioning of all features, including the requirement that "911" can be dialed without the requirement to dial another digit, such as "9."

Pursuant to the Commission's rules, I have filed a copy of this notice electronically in the above-referenced dockets. Please contact me if you require any additional information.

Respectfully submitted,

/s/ Paula Boyd

Paula Boyd
Senior Director, Government and Regulatory Affairs

cc: Randy Clarke, Acting Legal Advisor, Commissioner Geoffrey Starks
Elizabeth Cuttner, Attorney-Advisor, PLD, PSHSB
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